

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: Jacobus

Serial No.: 09/785,385

Group No.: 2155

Filed: Feb. 16, 2001

Examiner: Lesniewski

For: DISTRIBUTED COMPUTING ENVIRONMENT

APPELLANT'S REPLY BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Examiner's Answer mailed June 27, 2008, Appellant hereby submits its reply brief in response to new arguments raised by the Examiner.

The Examiner's argument with regard to claims 1, 3-9, 11 and 14-23 centers on the fact that limitations added by Appellant "do not change the scope of the invention." (Examiner's Answer page 11). Appellant respectfully disagrees. The Examiner would like the Board to believe that the claims are identical to those submitted in the last appeal, but they definitely are not. Although Appellant did not make a wholesale change to claim 1, the limitations added should not simply be ignored. Whereas, in the last appeal, claim 1 set forth "content-specific messages," the claims now recite "content-specific data within messages." This clearly distinguishes over messages wherein "the type of media determines what is in the messages to be sent." In the last appeal, the Board used "media-type" to infer that the content of a message could somehow be changed indirectly. With the claims as currently drafted, however, the content-specific data is already in the messages, a feature which is not taught or suggested by DeSimone. Thus, Applicant's amendment does change the scope of the invention, and goes beyond simply "clarifying" what was implied in the previous iteration of the claims, as suggested by the Examiner in the Examiner's Answer, top of page 12.

Beginning at the middle of page 12 of the Examiner's Answer, the Examiner concedes that, according to DeSimone, it is the client's choice as to which elements should be routed to the various

clients. Appellant agrees with this determination. At the bottom of page 12 of the Examiner's Answer, the Examiner comes to the conclusion that "thus, much like DeSimone, Applicant allows a client to specify the type of content to be distributed." This goes beyond the limitation of the claims. Even if Applicant were to allow a client to specify the type of content to be distributed, this does not meet the limitation of messages which themselves include content-specific data which permit or inhibit the distribution of a particular message based upon that content, without any client input. Thus, according to Appellant's *claims* the system and method of Appellant do not "simply inform the network which type of content should be routed to the client." (Examiner's Answer, top of page 13).

With respect to claim 4, the Examiner implies that Applicant needs to provide support other than the fact that DeSimone is entirely silent on the implementation of a "lobby manager." It is the Examiner's duty to establish *prima facie* obviousness, and not that of Appellant. It is the Examiner who does not provide support for the assertion that "DeSimone's directory server reads on the lobby manager as claimed," as implied on page 13 of the Examiner's Answer. At the very least, the Examiner – and the Board – should consult Appellant's specification to determine what is meant by a "lobby manager," with the assumption being that Appellant has not changed the ordinary and customary meaning of the same.

With regard to claims 2, 10, 12 and 13, the Examiner states that "the current claims presented for the Board in this appeal are identical to the claims that were decided upon in the previous decision." (Examiner's Answer, bottom of page 13, top of page 14). This is certainly not true, since dependent claims carry with them all of the limitations of the independent or other claims from which they depend, and, in this case, claims 1 and 11 have been changed, thus the current claims are not identical to those previously presented as suggested by the Examiner.

Respectfully submitted,

By: _____

Date: August 27, 2008

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